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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33814-2023 (O&M)
Date of decision: 11.01.2024

AKASHDEEP SINGH ALIAS AKASH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

Mr. Rahul Bhargava, Advocate
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

CRM-52105-2023

Prayer in this application is for placing on record certain documents as Annexure R-2 to Annexure R-4.

For the reasons mentioned in the application, the same is allowed.

The documents Annexure R-2 to Annexure R-4 are taken on record, subject to all just exceptions.

CRM-M-33814-2023

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.23 dated 13.02.2023, under Sections 323, 379-A, 427, 452, 506, 148 and

149 of the IPC (Section 379-A of the IPC was deleted and Sections 395 and 411 of the IPC were added later on), registered at Police Station Chattiwind, District Amritsar Rural, Punjab.

2. Learned counsel for the petitioner submitted that the petitioner is in custody from 07.03.2023, which is more than 10 months and investigation of the case has been completed by the police and thereafter, challan has also been presented before the competent Court. He further submitted that it is a case where the petitioner has been falsely implicated by the police and in fact even as per the prosecution story, a fight had taken place, wherein the complainant had a grudge against one of the other co-accused, namely, Kanwaljit Singh because of the fact that the complainant belonged to Aam Aadmi Party and the aforesaid co-accused belonged to Akali Party and as per the allegations, the aforesaid Kanwaljit Singh along with other co-accused had beaten up the complainant and the petitioner was also shown to have beaten up the complainant with a baseball bat. He also submitted that all the aforesaid co-accused including the main accused, namely, Kanwaljit Singh have already been granted the concession of interim anticipatory bail by this Court and they have already joined investigation and so far as the present petitioner is concerned, he was arrested on 07.03.2023 and now he has faced incarceration for more than 10 months and therefore, he may be considered for the grant of regular bail especially when the investigation of the case has been completed by the police and no further recovery is to be effected from the petitioner. He further submitted that the photographs which have been annexed vide Annexure R-3 by the learned counsel for the complainant were posted on social media and are that of the petitioner along with co-prisoner, namely, Vishal and the father of

the petitioner and the same were clicked from the mobile phone which belonged to the aforesaid co-prisoner, namely, Vishal but it does not mean by any stretch of imagination that there was any threat to the complainant by way of phone and at the most it can be a violation of Prisons Rules. He further submitted that this Court had also directed the State to verify with regard to the misuse of phone by which as alleged by the complainant, threats were made to the wife of the complainant on mobile phone by the petitioner was got verified by the police thoroughly and also a report was sought from the Cyber Crime Cell and as per the affidavit filed by the State now, there was no recovery of any phone from the petitioner and also the phone number which was so stated by the complainant was not found on the whatsapp portal and therefore, there was no involvement of the petitioner in use of any unlawful mobile phone and even one FIR was lodged against the petitioner for putting up his photographs on facebook but that also does not disentitle the petitioner for grant of regular bail. He further submitted that considering the aforesaid facts and circumstances of the present case and also the fact that the aforesaid main accused, namely, Kanwaljit Singh and other co-accused have already been granted the concession of interim anticipatory bail by this Court, the petitioner deserves the concession of regular bail.

3. On the other hand, Mr. Rajiv Verma, DAG, Punjab submitted that as per the affidavit filed by the State, on inquiry, no such phone was recovered from the petitioner and the phone number which was so stated by the complainant was not found on the whatsapp portal as per the report of the Cyber Crime Cell. He further submitted that it is not disputed that the other co-accused including Kanwaljit Singh have already been granted the concession

of interim anticipatory bail by this Court and some of the other co-accused were also granted the concession of interim anticipatory bail and the anticipatory bail qua them is pending before this Court. He also submitted that the petitioner is involved in one more case under the NDPS Act and there was a recovery of one baseball bat from the petitioner which caused injuries and which are in consonance with the injuries received by the complainant as per the MLR.

4. Learned counsel appearing on behalf of the complainant submitted that the petitioner was instrumental and very much present at the time of incident and he had also beaten up the complainant with a baseball bat which caused injuries, which are in consonance with the injuries as per the MLR. He further submitted that the petitioner had used mobile phone in the jail premises and threatened the wife of the complainant for making a compromise in the present case and therefore, he does not deserve the concession of regular bail.

5. I have heard the learned counsel for the parties.

6. The petitioner is in custody from 07.03.2023, which is more than 10 months and investigation of the case has been completed and thereafter, challan has also been presented. The petitioner is stated to be involved in one more case under the NDPS Act. The only objection which has now been taken by the learned counsel for the complainant is that the petitioner was threatening the wife of the complainant from inside the jail premises for making a compromise. The main accused, namely, Kanwaljit Singh and some other co-accused are already on interim anticipatory bail. As per the affidavit filed by the State, no phone was recovered from the petitioner on the basis of complaint made by the complainant regarding use of phone from inside the jail premises.

Apart from the above, the mobile phone regarding which allegations were made

that from that mobile number a threatening call was made was not found to be on the whatsapp portal. As per the learned counsel for the petitioner, there was one phone with one of the co-prisoner, namely, Vishal, who was involved in some other case and from his mobile phone the photographs of the petitioner and even his father who had come to meet him were clicked and were posted on facebook.

7. This Court is of the view that on this ground only that the photographs of the petitioner were clicked by some other co-prisoner and were put on the facebook cannot become a ground for denial of bail to the petitioner because it has not been substantiated in the affidavit filed by the State that the phone was with the petitioner or was recovered from the petitioner or any such phone call was made by the petitioner to the wife of the complainant.

8. Therefore, considering the aforesaid totality and circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioner.

9. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

10. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

11.01.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No